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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,241	08/27/2003	Albrecht Fuchs	P69099US0	3759

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06/24/2004

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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/648,241	Applicant(s) FUCHS ET AL	
	Examiner DHIRU R PATEL	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>SKETCH A</u> |

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Part III DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the reference characters must be properly applied, no single reference character being used for two different parts or for a given part and a modification of such part. Such as in the specification on page 4, " sealing element 6 or 6' " and on page 5, "sealing element 10". Applicant is responsible for providing separate reference number for each part disclosed in the specification. See MPEP § 608.01 (g) .

Applicant is responsible for reviewing the entire specification for each reference number and revise as required.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1- 14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1 lines 12-13 "said sealing element ... compressive force " is confusing because it is not clear that what type of a device being used for a compressive force?.

In claim 2 lines 13-14 "said sealing element ... compressive force " is confusing because it is not clear that what type of a device being used for a compressive force?.

In claim 8 lines 1-2, " said sleeve is conical " lacks antecedent basis.

In claim 12 line 2, " said element ... foam structure" is confusing because what is foam structure?.

In claim 13 line 3, " a compressive" should be " said compressive".

In claim 14 lines 1-4, " a sealable ... drawings" is confusing because it is not clear that what is being claimed in claim 14.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 3, 7, 12 and 14 as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Thompson (5,072,504).

Thompson discloses:

Regarding claim 1, at least one sleeve 10 made of a flexible material (see column 4 lines 45-60), one end of said sleeve is capable of tightly attaching to an outside of at least one of walls (see fig 2); at least one sealing element 22 (see fig 2) , at least approximately fitting said sleeve and being made of a material deformable in compression (see fig 2, column 5 lines 1-68), said sealing element being provided with a bore at least approximately fitting the size of a transfer means(see sketch A) intended to be led from outside a protected space into its interior or vice-versa;

said sealing element being adapted to be subjected to a compressive force (see column 5 lines 1-68), for sealing off any interspaces between said transfer means and said bore, and between said sealing element and said sleeve (see fig 2). It is noted that the assembly of Thompson meet the structural limitations.

Regarding claims 3 and 7 , wherein said sealing element is substantially cylindrical (see fig 1 for claim 3), and wherein said sleeve is cylindrical (see fig 1 for claim 7).

Regarding claim 12, see fig 1.

Regarding claim 14, claim 14 is included in this rejection as best understood.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 4-6, 8-9, 11 as best understood, are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Thompson (5,072,504).

Thompson discloses:

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Regarding claims 4-6, Thompson disclose all the features of the claimed invention as shown above, but fails to disclose wherein said sealing element is polygonal (for claim 4), wherein said polygonal sealing element is hexagonal (for claim 5), and wherein said sealing element is conical (for claim 6), and applicant doesn't state a particular problem is solved by the shape . It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Thompson with said sealing element is polygonal (for claim 4), wherein said polygonal sealing element is hexagonal (for claim 5), and wherein said sealing element is conical (for claim 6) , since more than a mere change of form is necessary for patentability. In re Span-Deck Inc. V. Fab-con, Inc. (CA 8, 1982) 215 USPQ 835.

Claims 8 and 9 are included in this rejection as best understood.

Regarding claim 11, Thompson disclose all the features of the claimed invention as shown above, but fails to disclose said sealing element is made of a material selected from the group including natural rubber, synthetic rubber, and polyurethane. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Thompson with said sealing element is made of a material selected from the group including natural rubber, synthetic rubber, and polyurethane, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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Allowable Subject Matter

5. Claims 2, 10, and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reasons for the indication of the allowability of claims 2, 10, and 13 are the inclusion therein, in combination as currently claimed, of the limitation of said sealing element being provided with a longitudinal slit extending along its entire length and reaching in depth to about the axis of said element (for claim 2), wherein said sealing element is provided with a longitudinal slit extending along its entire length and reaching in depth from the outside surface of said element into said bore (for claim 10), and further comprising tie means mountable on said sleeve and adapted to exert said compressive force on said sealing element for sealing off the interspaces between said transfer means and said bore, and between said sealing element and said sleeve (for claim 13).

The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

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Other prior art cited

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weyl et al, and Clement sealable lead through system similar to applicant's claimed invention.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel
Primary Examiner
Group Art Unit 2831
June 23, 2004

Dhiru R Patel
Primary Examiner
6/23/04